

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

HYDRO-THERMAL CORPORATION
Plaintiff,

v.

Case No. **07-C-918**

PRO SONIX, LLC and BRUCE A. CINCOTTA
Defendants.

ORDER

On June 3, 2008, the court held a telephone conference to discuss the defendant's motion to dismiss for failure to prosecute and plaintiff's motion to strike expert reports, and further scheduling. Appearing on behalf of the plaintiff were attorneys David Hanson and Thomas Phillips, and on behalf of the defendants was attorney Roger Pettit.

The parties and the court fully discussed the motions. After considering the written submissions of the parties and their oral arguments, for reasons more fully stated on the record, **IT IS ORDERED,**

1. The court **DENIES** the defendants' motion to dismiss for failure to prosecute.

2. As to Bruce Cincotta, the plaintiff's motion to strike expert reports is **GRANTED**.

The defendants shall have until **July 3, 2008** to file a proper expert report from Cincotta. The plaintiff shall name any rebuttal expert and take any depositions of Cincotta, as an expert witness, by **September 1, 2008**. The defendants shall have until **October 1, 2008** to depose the plaintiff's rebuttal expert.

3. As to Joseph Heino, the motion is **GRANTED in Part and DENIED in Part**. The court **GRANTS** the motion to strike any portion of Heino's report which is denominated as a legal conclusion, but **DENIES** the motion as to the other portions of Heino's report, which shall stand as presented. If there is a dispute as to which portions of the report are legal conclusions, the court will resolve the dispute on appropriate motion. .

4. The court **DENIES** the plaintiff's request to depose Heino or to file any rebuttal report.

IT IS FURTHER ORDERED,

5. An in-court conference is set for **October 28, 2008 at 8:30 a.m.** in court room 254 to discuss the procedures and scheduling for a Markman hearing and motions for summary judgment.

Dated at Milwaukee, Wisconsin, this 3rd day of June, 2008.

S/AARON E. GOODSTEIN
UNITED STATES MAGISTRATE JUDGE